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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
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3761

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DATE MAILED: 07/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/147,894

Applicant(s)

TANAKA ET AL. *CR*

Examiner

Karin M. Reichle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-11 and 19-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-11 and 19-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 08 May 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 16
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

1. It is noted that the marked up copy of the description of Figure 14 still did not comply with 37 CFR 1.121. The Examiner has brought such copy into compliance by making the appropriate changes in red ink.

Specification

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

For Example:

Drawings

2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 5-8-03 have been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

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3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the invention of claims 5, 20, 23 and 26 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Contrary to Applicant's remarks Figure 8 does not show an almost entire surface of the absorbent sheet overlaid with the top layer since the portion overlying the body 81 is significant. Also Figure 14 does not show a planar but folded pad.

4. The drawings are objected to because due to the added page of Figures the page numbers should reflect that there are 8 pages of Figures, i.e. 1/8, 2/8, etc. Also, in Figure 15, the number 6 should not be underlined. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Description

5. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first

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paragraph. Examples of some unclear, inexact or verbose terms used in the specification are:

page 24, line 7, i.e. "are" should be --is--.

6. The disclosure is objected to because of the following informalities: The Summary of the Invention section, i.e. a description of the claimed invention, and the invention of the claims is not commensurate, see MPEP 608.01(d) and 1302.01. For example, where are the single absorbent sheet integrally folded with the topsheet to form the cuffs and a projecting portion as claimed in claim 1 set forth?

Appropriate correction is required.

7. It is noted that page 23, line 22 would be in better form if "31" was amended to be --31'--. Also the language "planar" on line 22 is noted. See discussion of claim 20 infra.

Claim Objections

8. Claim 7 is objected to because of the following informalities: In claim 7, line 3, "paper" should be --papers-- and "fabric" should be --fabrics--. Appropriate correction is required.

Contrary to Applicant's remarks claim 7 was not amended to overcome the objections.

9. Claim 27 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 24. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim

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to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

10. Claims 1-3, 5-11, 15, and 19-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 1, it is still unclear whether the single absorbent sheet and the absorbent member are one and the same, i.e. on line 7, after “edges,” --said absorbent member being a single absorbent sheet, -- should be inserted and “a” should be --the--. In regard to claims 19 and 20, is the absorbent sheet part of the absorbent member or not? In claim 20, the description of the single pad as being both planar, line 9, and being folded, line 13, is inconsistent. Contrary to Applicant’s remarks the term “planar” has not been removed. Claim 27 appears to be redundant, i.e. see claim 21. If not, how does it differ?

Claim Rejections - 35 USC § 102

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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12. It is noted that “barrier” is defined as “something that acts to hinder or restrict” as defined by the American Heritage Dictionary. Each of the following prior art devices includes laterally located portions which are absorbent and extend along longitudinal edges, and thereby if not explicitly described as such, inherently perform, have the capability or function as barrier cuffs.

13. Claims 1-3, 8-11, 15 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Roessler et al.

See Figures 3-5, i.e. top layer 25, back layer 24, absorbent layer or sheet, upper layer 50, barrier cuffs, adjacent 44 as seen in figure 3, and see col. 10, lines 23-27, pocket portion, 47, projecting portion 52, means for bonding, col. 10, lines 11-14, absorbent pad, lower layer of 53, thickness, see col. 10, lines 58-60 and col. 12, line 1, elastic members, col 7, line 63-col. 8, line 43. Again the claims do not require that the absorbent member includes only a single layered absorbent sheet forming cuffs with the topsheet nor that the cuffs can not include other layers except for the single absorbent sheet and top layer as long as layers are not folded.

Allowable Subject Matter

14. Claims 5-7, 21, 27, 19-20, 22-23 and 25-26 patentably distinguish over the prior art of good date, before 10-23-96, alone or in any combination, because it does not teach the structure of lines 6 et seq of claims 19 and 20 in combination with the other structure claimed in those claims or the features of claims 5, 6, 21 and 27 in combination with the features of claim 1.

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Response to Arguments

15. Contrary to Applicant's remarks on page 13, last paragraph, paper and nonwoven fabric are absorbent material, see page 6, line 11 of the specification as originally filed. Therefore, "sheet" as interpreted in light of the specification does not require a single layer. The remainder of Applicant's remarks have been considered but are either deemed moot in that they have not been repeated or are deemed nonpersuasive for the reasons set forth supra.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Th cited prior art teaches variously formed cuffs.

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any new grounds of rejection were necessitated by the amendments to the claims and/or drawings and/or specification.

18. Any inquiry concerning this communication should be directed to K. M. Reichle at telephone number 703-308-2617. The Examiner's regular work schedule is Monday-Thursday. The Official RightFAX number is 703-872-9302.

KMR

July 23, 2003

K.M. Reichle
KARIN REICHEL
EXAMINER